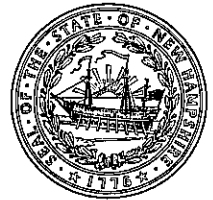




The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

March 20, 2009

The Honorable Susan W. Almy, Chair  
Ways and Means Committee  
Room 202 Legislative Office Building  
Concord, NH 03301

**RE: HB 490-FN-A-L, relative to the maintenance of state-owned dams**

Dear Chairman Almy:

Thank you for the opportunity to comment on HB 490-FN.

When the bill was first introduced this session, it established a fee of 35 cents for each foot of shore frontage on a lake or pond impounded by a state owned dam. The fee would be deposited in the state's Dam Maintenance Fund to fund the operation, maintenance, and reconstruction of the 269 dams owned by the State of New Hampshire. Based on an estimate of 4,790,000 feet of shorefront that would be subject to the fee, the net annual revenue to the Dam Maintenance Fund would have been approximately \$1,676,500.

As introduced, the bill would have implemented a recommendation of the Study Committee that was formed, pursuant to Chapter 121:1, Laws of 2004, to study the effects of electric utility restructuring on the revenue to the state's Dam Maintenance Fund and the alternatives for funding the operation and maintenance of state-owned dams. However, the bill has been amended to delete the proposal for a fee on shorefront property, and instead require that the legislature adequately appropriate funds for the maintenance of state-owned dams.

The State of New Hampshire owns a total of 269 dams. Many of these dams impound the most important recreational lakes in the state. Of these, 29 are High Hazard Dams, the failure of which would cause loss of life downstream, and 53 are Significant Hazard Dams, the failure of which would cause significant property damage downstream. Even the loss of any of the Low Hazard Dams that the state owns could cause significant economic losses to the state due to the loss of recreational opportunities and the devaluation of waterfront property associated with the dam.

Many of these dams were constructed in the mid 1800's to provide waterpower to fuel the industrialization of New Hampshire and Massachusetts, and most of the dams that the state owns are well over 100 years old. Because of their age, they require continued attention to maintain them in a safe condition. Given the number of dams the state owns and the normal design life of these structures, the state must perform major repairs or reconstruction on an average of five dams per year. The large number of dams the state owns also puts a large operations burden on the state. The outlets of each of these dams must be constantly managed so as not to cause flooding in the lakes and downstream, and to ensure that the recreation and other public benefits provided by the lakes are maintained.

The costs for the operation, maintenance, repair and reconstruction of these dams are funded from the State Dam Maintenance Fund. The sole source of revenue to the fund is rent payments that the Department of Environmental Services receives from leasing twelve of the dams that it owns to private hydropower developers to generate electricity at the sites. Under the terms of the leases, the rent that is paid to the Department of Environmental Services is a percentage of the revenue from the sale of power at the facilities. Eleven of these lessees sell the power to Public Service Company of New Hampshire (PSNH).

In 2002, the Dam Maintenance Fund was projected to be solvent through 2015 based on projected revenues from these hydropower leases and projected expenditures on bond obligations and dam reconstruction projects. However, that year PSNH initiated actions to renegotiate their above-market power purchase agreements pursuant to RSA 374-F. This is the Electric Utility Restructuring legislation that directed utilities to take all reasonable measures to mitigate stranded costs, including the renegotiation of power purchase contracts. As part of that initiative, PSNH bought-out or bought-down the above-market power purchase agreements of seven of the lessees of the state-owned dams in return for lump sum payments made to these lessees. The result was a 40% drop in revenue to the State Dam Maintenance Fund, which, combined with the continuing obligations of the fund, has caused the fund to be insolvent.

Given this sudden, unexpected reduction in the funding source of the Dam Maintenance Fund, the Legislature reacted by enacting SB 488, Chapter 121:1, Laws of 2004 and forming a committee to study the effects of electric utility restructuring on the state's Dam Maintenance Fund and the alternatives for funding the operation and maintenance of state-owned dams. The Committee met through the summer and fall of 2004, and issued its final report on December 1, 2004.

The Committee identified potential alternative funding from those sources that benefit most directly from the impoundments created by state-owned dams, including shorefront property owners, boaters, anglers, and others that use the impoundment for recreation. Alternative funding sources examined, but determined by the Committee to be impractical, included leasing additional dams for hydropower generation and increasing fishing license fees, boat registration fees, boat mooring fees, and park fees. However, the Committee did recommend two practical funding solutions: the first one being a shorefront maintenance fee per linear foot of shorefront property, and the second one being allocation of a portion of the unrefunded road tolls to the Dam Maintenance Fund. As originally introduced, HB 490-FN would have implemented the first of these two alternatives.

The Department of Environmental Services welcomes the efforts of the Legislature to identify alternative funding sources to address the shortfall in the Dam Maintenance Fund and to ensure that the state's dams continue to be operated and maintained so that they do not pose a threat to life and property downstream and continue to provide economic and recreation benefits to the state.


The Honorable Susan W. Almy, Chair

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Thank you for this opportunity to comment on this bill. Please call either me at 271-2958 or Jim Gallagher at 271-1961, if you have any questions or need additional information.

Very truly yours,

  
for Thomas S. Burack  
Commissioner

cc: Representative Ron Mack  
Representative Frank Davis  
Representative L. Mike Kappler